

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference ST42132	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/051214	International filing date (day/month/year) 23.06.2004	Priority date (day/month/year) 02.07.2003	
International Patent Classification (IPC) or national classification and IPC E04F15/04, E04F15/02			
Applicant KAINDL FLOORING GMBH			

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 8 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																	
<p>4. This report contains indications relating to the following items:</p> <table> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VI Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I Basis of the report	<input type="checkbox"/>	Box No. II Priority	<input type="checkbox"/>	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input checked="" type="checkbox"/>	Box No. VI Certain documents cited	<input type="checkbox"/>	Box No. VII Certain defects in the international application	<input type="checkbox"/>	Box No. VIII Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:

- international search (Rule 12.3 and 23.1(b))
- publication of the international application (Rule 12.4)
- international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:

pages 1-31 as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

the claims:

nos. 1-25 as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19

nos.* _____ received by this Authority on _____

nos.* _____ received by this Authority on _____

the drawings:

sheets 1/5-5/5 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (specify): _____
 any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims	<u>6, 10</u>	YES
	Claims	<u>1-5, 7-9, 11-25</u>	NO
Inventive step (IS)	Claims	<u>10</u>	YES
	Claims	<u>1-9, 11-25</u>	NO
Industrial applicability (IA)	Claims	<u>1-25</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

- 1 The present report refers to the following documents:
D1: US-A-2003/0101681
D2: DE-U-20109840
2. The application does not meet the requirements of PCT Article 6 because claims 1 and 5-16 are not clear.
 - 2.1 Claim 1 refers to "the first board", "the second board" and "the third board", which have not previously been defined.
 - 2.2 Claims 5-16, after the wording "according to one of the previous claims", also refer back to claim 1, although it refers to "a start position" and a "final position" which are not defined until claim 4. The claims are therefore deemed to be dependent on claim 4.
 - 2.3 Claims 9 and 10 also refer back to claims 1 or 4, although said claims refer to the "perpendicular groove" which is not defined until claim 8. The

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claims are therefore deemed to be dependent on claim 8.

2.4 Method claims 22, 23 and 25 can only refer back to the corresponding independent method claims 21 (for claims 22 and 23) and 24.

3.1 Irrespective of the above-mentioned lack of clarity, the present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 is not novel (PCT Article 33(2)).

D1 (figures 1, 8) discloses boards (1, 2) with laterally arranged locking elements (7, 8), the locking elements being designed such that, by displacing a first board (2) against a second board (1) along a first common connection joint, simultaneously

- the first board can be connected to the second board in positive fit along the first common connection joint both perpendicularly to the board surface (3) and parallel to the board surface and at the same time perpendicularly to the first common connection joint, and
- the first board can be connected to a third board in positive fit along a second common connection joint at least perpendicularly to the board surface.

Therefore, all the features of claim 1 are known from D1, and claim 1 and consequently also the

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method claim according to claim 21 (the method for connecting the boards) do not meet the requirements of PCT Article 33(2).

- 3.2 D1 also discloses the additional features of claims 2, 3 and claims 22 and 23 (dependent on claim 21), which therefore do not meet the requirements of novelty either (PCT Article 33(2)).
- 3.3 The variants of claims 17-20, which are dependent on claim 1, do not contain any features which, in combination with the features of any claims to which they refer, meet the PCT novelty and inventive step requirements.
- 4.1 D2 (figure 2) discloses boards (1, 2) with laterally mounted locking elements (5, 6, 7, 9), by means of which two of the boards can be connected to each other laterally in positive fit without glue, the locking elements being designed such that:
- there is a start position into which the boards are to be brought by lowering in the vertical direction, forming a common joint (4) between the boards which gives rise to play, and
 - a final position in which the boards are locked together in positive fit in the vertical direction and in which no play arises on the common joint and the panels can be connected without glue.

Consequently, the novelty of the at least one

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- Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**
- variant of claim 4 and thus also the method claim according to claim 24 (the method for connecting the boards) are anticipated (PCT Article 33(2)) and therefore these claims are not admissible (PCT Article 33).
- 4.2 D2 discloses, further, the additional features of claims 5, 7-9, 11-16 and 25, and the additional features of the variant of claims 17-20 which are dependent on claim 4, which therefore do not meet the requirements of novelty either (PCT Article 33(2)).
- 4.3 Dependent claim 6 does not contain any features which, in combination with the features of any claim to which it refers, meet the PCT inventive step requirements.
- 4.4 The combination of features contained in dependent claim 10 (see §2.3) is neither known from nor suggested by the available prior art.
- 5.1 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of the independent variant of claim 17 is not novel (PCT Article 33(2)).
D2 discloses boards (1, 2) which can be connected to one another in a glue-free manner, with a paste or adhesive sealing material or adhesive between two boards that are connected (see claim 8).
- 5.2 D1 discloses, further, the additional features of

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| Box No. V | <p>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>claims 18-20 (dependent on claim 17), which therefore likewise do not meet the requirements of novelty (PCT Article 33(2)).</p> |
| <p>5.3 In addition, attention is drawn to the fact that claims 17-20 (in the independent form) are considered to lack unity of invention with independent claims 1 and 4, because the different groups (group 1 = claims 1 + 4; group 2 = claim 17 in independent form) do not contain the same or corresponding special technical features which determine the contribution made by the claim over the prior art. However, because claims 17-20, according to points 4.1 and 4.2, cannot be deemed novel, there is no contribution made over the prior art, and therefore the question of unity of invention does not arise.</p> <p>6. The subject matter of claims 1-25 is industrially applicable and therefore the claims meet the requirements of PCT Article 33(4).</p> | |

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Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
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2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)
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